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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,355	08/14/2003	William E. Sobel	SYMAP024	1616
35833	7590	09/20/2007		
VAN PELT & YI LLP 10050 N. FOOTHILL BLVD. SUITE 200 CUPERTINO, CA 95014			EXAMINER NGUYEN, MERILYN P	
			ART UNIT 2163	PAPER NUMBER
			MAIL DATE 09/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/642,355

Applicant(s)

SOBEL, WILLIAM E.

Examiner

Merilyn P. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-13,26 and 30-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-13,26 and 30-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Detailed action.

***DETAILED ACTION***

1. In response to the communication dated 01/30/2007, claims 1, 3-5, 7-13, 26 and 30-46 are pending in this application as the result of the addition of claims 46.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 7 and 8, the claims recite “marking a first portion of a repository” (claim 7) and “reverting a second portion of the repository” (claim 8) which render the claims incomplete as to there are no connections between these steps and other steps (claim 1).

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 26 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In the present case, claimed invention (Claim 26) recites a computer readable medium that is defined in the Applicant's specification broader to read on signals embodied on a carrier

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wave (Page 16, line 15). Signals embodied on a carrier wave is not a process, a machine, manufacture, nor composition of matter, thus is a non-statutory subject matter.

All other claims are rejected under 101 for failing to solve the deficiencies of claim 26 from which it depends.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-5, 7-13, 26 and 30-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Colligan (US 6,298,443).

Regarding claims 1, 26 and 34, Colligan discloses a method, a system (See Fig. 4) a computer program product for rolling a computer resource back (restoration) to a state associated with a computer image (See col. 5, lines 4-9, col. 7, lines 40-64) comprising:

- determining a roll-back state associated with the computer image (See col. 5, lines 4-9 and col. 7, lines 40-64);
- determining whether the roll-back state is secure (See col. 9, lines 1-22); and
- performing one or more remediation actions prior to or during a roll-back of the computer resource to the roll-back state if it is determined that the roll-back state is not secure (See col. 9, lines 4-5 and 15-18); and

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- rolling back the computer resource if it is determined that the roll-back state is secure (See col. 7, lines 40-64 and col. 9, lines 18-22).

Regarding claims 3-5 and 35-36, Colligan discloses wherein the image is a system image, a file or an application image (See Fig. 1 and col. 9, lines 44-46).

Regarding claim 7, Colligan discloses marking a first portion of a repository (See col. 9, lines 14-22).

Regarding claim 8, Colligan discloses reverting a second portion of the repository (See col. 9, lines 14-22).

Regarding claims 9 and 37, Colligan discloses wherein evaluating a security definition in a repository providing data to the roll-back state (See col. 6, lines 25-59).

Regarding claims 10 and 38, Colligan discloses determining whether the definition is updated (See col. 6, lines 25-26).

Regarding claims 11 and 39, Colligan discloses retrieving an updated definition if the definition is not updated (See col. 6, lines 25-26).

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Regarding claims 12 and 40, Colligan discloses installing the updated definition if the definition is not updated (See col. 6, lines 25-26).

Regarding claims 13 and 41, Colligan discloses wherein performing one or more remediation actions includes displaying a message (See col. 9, lines 3-4) and receiving a user input (See col. 9, lines 4-6).

Regarding claims 30 and 42, Colligan discloses wherein performing one or more remediation actions includes displaying a warning to a user (See col. 9, lines 3-4).

Regarding claims 31 and 43, Colligan discloses wherein performing one or more remediation actions includes stopping the roll-back during the roll-back of the computer resource (See col. 9, lines 5-10).

Regarding claims 32 and 44, Colligan discloses wherein the remediation actions may be configured by a user, system/network administrator, or other person (See col. 9, lines 5-10).

Regarding claims 33 and 45, Colligan discloses wherein performing one or more remediation actions includes retrieving updated security definitions (See col. 9, lines 14-21).

Regarding claims 46, Colligan discloses wherein the image is a system image (See col. 9, lines 43-45).

***Response to Arguments***

5. Applicant's arguments filed on 06/04/2007 about the claim rejection of the last Office Action have been fully considered, but they are not persuasive.

Applicant argues that Colligan fails to teach, "determining whether the roll-back state is secure". The Examiner respectfully disagrees. Col. 9, lines 1-22 teaches this limitation as to check to see if it's safe to restore to the original state such as insuring proper operation of the drive, eliminating any viruses that may have infected the drive 112 and then restore (roll back) all software originally ordered and configured.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marilyn P Nguyen whose telephone number is 571-272-4026.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



MN

September 17, 2007



WILSON LEE  
PRIMARY EXAMINER